UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

LEONA HARRISON CASIANO,

Plaintiff,

Civil Action No. 23-21872 (JXN) (CLW)

v.

,

MEMORANDUM OPINION & ORDER

OFFICE OF LABOR MANAGEMENT STANDARDS, and JOY MITCHELL-FRIEDMAN, District Director,

Defendants.

NEALS, District Judge:

Before the Court is *pro se* Plaintiff Leona Harrison Casiano's ("Plaintiff") complaint (ECF No. 1) (the "Complaint"), as well as Plaintiff's application to proceed *in forma pauperis* (ECF No. 1-2) (the "IFP Application"). For the reasons set forth below, the IFP Application is **GRANTED** and the Complaint is **DISMISSED** *without prejudice*. Plaintiff may file an amended complaint within thirty (30) days to cure the deficiencies discussed herein.

- 1. In submitting the IFP Application, the Complaint is subject to *sua sponte* screening and may be dismissed for "fail[ure] to state a claim on which relief may be granted[.]" § 1915(e)(2)(B)(ii). The Court applies the same standard of review as that for dismissal under Federal Rule of Civil Procedure 12(b)(6). *Schreane v. Seana*, 506 F. App'x 120, 122-23 (3d Cir. 2012).
- 2. Under Rule 12(b)(6), "a complaint must contain sufficient factual matter" to state a plausible claim. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted). A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citation omitted).

The Court must "accept all factual allegations as true" and "construe the complaint in the light most favorable to the plaintiff" *Phillips v. Cty. of Allegheny*, 515 F.3d 224, 233 (3d Cir. 2008) (citations and internal quotations omitted).

- 3. Pursuant to Rule 8, a claim for relief must contain "a short and plain statement of the claim showing that the pleader is entitled to relief[.]" Fed. R. Civ. P. 8(a)(2). Each averment in a complaint must likewise be "simple, concise, and direct." *Id.* at (d)(1). A district court may dismiss a complaint *sua sponte* for failure to comply with Rule 8. *Ruther v. State Ky. Officers*, 556 F. App'x 91, 92 (3d Cir. 2014). Thus, a complaint may be dismissed when it "is so confused, ambiguous, vague, or otherwise unintelligible that its true substance, if any, is well disguised." *Id.* (citation and internal quotations omitted). Here, the Complaint is dismissed *without prejudice* because it fails to state a claim.
- 4. First, Plaintiff claims that this is a class action under Rule 23 (ECF No. 1-1) (the "Civil Cover Sheet")¹. Based on the face of the Complaint, there are no class action allegations.
- 5. Second, Plaintiff alleges "[r]etaliation . . . for reporting" defendant's "negligence." (*Ibid.*). There are no allegations beyond conclusory, vague, or immaterial facts to suggest that Plaintiff was retaliated against and therefore, are insufficient to "state a claim to relief that is plausible on its face." *Ashcroft*, 556 U.S. at 678 (citation omitted); *see also D'Agostino v. CECOM RDEC*, No. 10-4558, 2010 WL 3719623, at *1 (D.N.J. Sept. 14, 2010) (Court "need not . . . credit a *pro se* plaintiff's bald assertions or legal conclusions[.]") (citation and internal quotations omitted).
- 6. Third, while Plaintiff alleges that the claims sound in personal injury, fraud, civil rights, and the False Claims Act (*see* Civil Cover Sheet), no facts pled support these claims.

¹ Plaintiff also claims there is a related case under "Docket Number 4[.]" (*Ibid.*). The Court is unable to confirm same.

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7. Fourth, and finally, the Complaint appears to have been filed in response to

Plaintiff's alleged "impeach[ment]" as president of Plaintiff's union (see Compl. at 3-4), and for

being a "[w]histleblower[.]" (ECF No. 1-4 at 1). The Complaint, however, state no facts to suggest

a plausible cause of action for removal of a local union leader.

8. In short, because the Complaint does not comply with Rule 8 and fails to state a

claim under § 1915(e)(2)(B)(ii), it is dismissed in its entirety without prejudice. Plaintiff shall be

given an opportunity to file an amended complaint.

For all the foregoing reasons, it is hereby,

ORDERED that the IFP Application (ECF No. 1-2) is **GRANTED**; it is further

ORDERED that Plaintiff's Complaint (ECF No. 1) is DISMISSED without prejudice; it

is further

ORDERED that Plaintiff may file an amended complaint within thirty (30) days of this

Memorandum Opinion and Order to cure the deficiencies discussed herein; and it is further

ORDERED that the Clerk of Court shall ADMINISTRATIVELY TERMINATE this

action subject to restoration to the active docket should Plaintiff file an amended complaint within

the specified time.

DATED: <u>11/16/2023</u>

s/ Julien Xavier Neals

JULIEN XAVIER NEALS

United States District Judge

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